

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

UNITED STATES OF AMERICA,

v.

TINA MUSSELWHITE DAVIS,

Defendant.

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**Criminal Action No.
5:04-CR-13(HL)**

ORDER

Defendant, proceeding pro se, has filed a Motion to Reduce Sentence (Doc. 30). For the following reasons, Defendant's Motion is denied.

Defendant was sentenced in August 2004 after pleading guilty to one count of possession of methamphetamine with intent to distribute. According to Defendant, in November 2008, the Sentencing Commission amended the commentary to U.S.S.G. § 2D1.1. Based on this amended commentary, Defendant requests that her sentence be reduced.

It appears that the Defendant is actually relying on the amended commentary to U.S.S.G. § 2L1.2. Defendant previously filed a Motion to Reduce Sentence (Doc. 28) based on this same amended commentary. That Motion was denied on November 10, 2008, because U.S.S.G. § 2L1.2 was not used to calculate her advisory guideline range. (Doc. 29, Order.) Defendant now argues that she is relying on the amended commentary to U.S.S.G. § 2D1.1, but she still cites to the

same amended commentary that was cited in her first Motion to Reduce Sentence. Because this Court has already determined that Defendant is not entitled to a reduction in sentence based on the amended commentary on which she relies, Defendant's Motion to Reduce Sentence is denied.

SO ORDERED, this the 30th day of July, 2009.

s/ Hugh Lawson
HUGH LAWSON, Judge

dhc